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APPLIED BIOSYSTEMS LEGAL2

NO. 6442 P. 1

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Case No. 4380US

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Russell G. Higuchi** ) Group Art Unit: 1743  
Serial No.: 08/968,208 ) Examiner: J. Snay  
Filed: November 12, 1997 ) Confirmation Number: 8271  
For: INSTRUMENT FOR )  
MONITORING NUCLEIC ACID )  
AMPLIFICATION )

I hereby certify that this paper is being facsimile-transmitted to the US Patent and Trademark Office, Attn: MAIL STOP ISSUE FEE, fax number 703-746-4000, on September 10, 2004.

Vincent M. Powers  
Vincent M. Powers

**COMMENTS ON REASONS FOR ALLOWANCE**

*Response to Interview Summary Mailed September 3, 2004*

**MAIL STOP ISSUE FEE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Further to the Supplemental Notice of Allowability, Examiner's Amendment, and Interview Summary (PTOL-413) mailed September 3, 2004, this is to comment on the Examiner's Amendment and summarize telephonic interviews held between Supervisory Patent Examiner Jill A. Warden, applicant's outside counsel Ann Pease, and the undersigned.

The Examiner's Amendment reflects telephonic interviews held on September 1 and 2 at the request of the undersigned regarding the comments that appeared on the form PTOL-271 mailed July 13, 2004 (Response to Rule 312 Communication) concerning computer control and programmability. During those interviews, which did not involve any exhibits, demonstrations or discussion of prior art, Examiner Warden agreed to reinstate the subject matter of canceled claims 38 and 47 as new claims 48 and 49 since the feature of "computer-control" was not considered to be implicit in the meaning of thermal cyclers. It was also agreed to amend independent claims 30 and 39 to insert "automated" before "thermal cyclers" to avoid any ambiguity as to this feature of the thermal cyclers component of the apparatus. Also, the

Examiner agreed to amend claim 36 to correct a minor typographical error (omission of "light") in claim 36 to comport with the wording of other dependent claims. No other claims were discussed.

Examiner Warden indicated that these amendments would be made only after consultation with Examiner Snay, the primary Examiner handling this case up to this point, who had just returned from vacation. The undersigned would like to thank the Examiner for her assistance and consideration in this matter.

Respectfully submitted,

Date: Sept 10, 2004

Vincent M. Powers  
Vincent M. Powers  
Attorney for Applicant  
Reg. No. 36,246  
Telephone: 650-638-6492

**CORRESPONDENCE ADDRESS**

Customer Number 22896  
Applied Biosystems  
850 Lincoln Centre Drive  
Foster City, California 94404  
TEL: 650-570-6667  
FAX: 650-638-6677